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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,854	02/20/2004	Damon DeBenedictis	65725-0043	7640
23552	7590	08/01/2008		
MERCHANT & GOULD PC			EXAMINER	
P.O. BOX 2903			CHUNG TRANS, XUONG MY	
MINNEAPOLIS, MN 55402-0903				
			ART UNIT	PAPER NUMBER
			2833	
			MAIL DATE	DELIVERY MODE
			08/01/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary****Application No.**

10/783,854

**Applicant(s)**

DEBENEDICTIS ET AL.

**Examiner**

XUONG M. CHUNG TRANS

**Art Unit**

2833

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 68-79 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 68-79 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

1. This is responsive to the amendment filed on April 28, 2008. Claims 68-79 are pending in this application.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 68-79 are rejected under 35 U.S.C. 103(a) as being unpatentable over Karan et al. (4,932,051) in view of Daoud et al. (6,325,634) or Meckley (6267628).

As per claim 68, Karan discloses a telecommunications device comprising:  
a panel 18 including a first end and a second end, the panel including mounting flanges at the first and second ends thereof, the mounting flanges including fastener openings 56 for mounting the panel to a telecommunications rack, the panel including a first plurality of jacks 68 mounted thereon and a second plurality of jacks mounted thereon, the second plurality of jacks being positioned entirely below the first plurality of jacks, the first plurality of jacks defining a first set of gaps between the jacks of the first plurality jacks, the second plurality of jacks defining a second set of gaps between the jacks of the second plurality of jacks, the jacks of the second plurality of jacks being centered directly below the first set of gaps defined between the jacks of the first plurality of jacks (see fig. 3). Karan does not explicitly disclose that none of the jacks of the second plurality of jacks include portions that overlap with the jacks of the first plurality of jacks located directly above the second plurality of jacks and the jacks of the

first plurality of jacks being centered directly above the second set of gaps defined between the jacks of the second plurality of jacks such that none of the jacks of the first plurality of jacks include portions that overlap with the jacks of the second plurality of jacks located directly below the first plurality of jacks. Daoud, however, discloses that a distance between adjacent connectors can be sufficiently increased in order to minimize or even eliminate crosstalk (col. 3, lines 20-28). Meckley discloses a multi-level multi-port jack housing having jacks wherein the jacks are offset from one another (col. 14, lines 62-64) and suggests that the jacks are desirable to space or distance from one another as much as possible to reduce crosstalk between the jacks (col. 3, lines 56-61). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Karan apparatus by providing a sufficient distance between adjacent jacks as taught by Daoud and Meckley in order to effectively minimize crosstalk and thereby to yield the predictable results.

As per claims 69-70, Karan discloses the first plurality of jacks includes at least twelve jacks and the second plurality of jacks includes at least twelve jacks, wherein the panel includes molded non-conductive material.

As per claims 71-73, these claims recite subject matter similar to claims 68-70. Therefore, they are rejected under the similar rationale.

As per claim 74, Meckley discloses the frame (102) is molded plastic.

As per claim 75, Meckley discloses that the jacks include RJ-45 jacks (col. 14, lines 59-60).

As per claim 76-78, Meckley inherently discloses that the shield structure includes conductive material,

As per claim 79, Meckley does not disclose that the shield structure includes carbon-filled material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize any suitable materials that prevent crosstalk and signal degradation, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416. Furthermore, applicant has not disclosed that the use of carbon-filled material solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with any material.

4. Applicant's arguments filed April 28, 2008 have been fully considered but they are not persuasive.

In response to applicant's argument that there is no suggestion to combine the references, the examiner disagreed. Both Daoud and Meckley clearly teach that the spacing can be changed and one of ordinary skill would be motivated to change the spacing to reduce cross talk. Applicants agree that it is stated in Daoud that by increasing the distance between vertically adjacent protectors, the amount of crosstalk can be minimized, it is also specifically stated in Daoud, in column 3, lines 27-29, that "...the configuration shown in FIG. 6 disadvantageously take up more space and therefore more expensive." And Applicant agreed that it is specifically stated in Meckley

that it is desirable to space or distance the contact or terminal members from one another as much as possible, but argued that column 2, lines 54-58 of Meckley and column 1, lines 53-57 of Fair specifically stated it has become increasingly necessary to increase the number of modular connectors ports which can be mounted in a given area. It is pointed out the text as applicant referred to is a general discussion in the background of Meckley. It is further pointed out that the elimination of crosstalk must not compromise even though the intention to increase number of modular connector ports mounted in a given area is considered. It has been held that the test for obviousness is not whether the features of one reference may be bodily incorporated into the other to produce the claimed subject matter but simply what the combination of references makes obvious to one of ordinary skill in the pertinent art. In *re* Bozek, 163 USPQ 545 (CCPA 1969).

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to XUONG M. CHUNG TRANS whose telephone number is (571)272-2002. The examiner can normally be reached on Monday and Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Renee Luebke can be reached on (571) 272-2009. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/X.M.C. /

/Truc T. T. Nguyen/

Primary Examiner, Art Unit 2833